

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU

&

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

WA.No. 2040 of 2007

AGAINST THE ORDER IN R.P.NO.615/2007 IN W.P.(C) NO.7455/2007
DATED 23.7.2007

APPELLANT: REVIEW PETITIONER/PETITIONER

MANOJ P.M., S/O.MADHUSOODHANAN,
PUTHUVALPUTHENVEEDU, MARATHAKKARA POST,
THRISSUR DISTRICT.

BY ADV. SRI.SAIBY JOSE KIDANGOOR

RESPONDENTS: RESPONDENTS/RESPONDENTS

1. THE DISTRICT COLLECTOR, THRISSUR.
2. REVENUE DIVISIONAL OFFICER, THRISSUR.
3. THE GEOLOGIST, THRISSUR DISTRICT,
THRISSUR.
4. RAGHAVAN, CHERAPARAMBIL HOUSE,
PUTHUR P.O., THRISSUR DISTRICT.
5. SHAJAN, VYLOPPILLY HOUSE,
THRIKKOOR P.O., THRISSUR DISTRICT.

SPECIAL GOVERNMENT PLEADER SRI.C.T.RAVIKUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 17/08/2007, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 2040 OF 2007

Dated this the 17th August, 2007

JUDGMENT

H.L.DATTU, C.J.

Appellant, a resident of Puthuvalputhenveedu, Marathakkara, Thrissur District, had filed W.P.(C) No.7455 of 2007 before this Court, inter alia, seeking the following reliefs:

- “i) to declare that the soil excavation carrying out by respondents 4 and 5 in Sy.No.614 in Puthur Village, Thrissur Taluk in Thrissur District is illegal; and
- ii) to direct the second respondent in the Writ Petition to cancel the permit given to the fifth respondent to excavate soil in Sy.No.614 in Puthur Village in Thrissur District.”

2. Learned single Judge while entertaining the Writ Petition had issued notice to the respondents.

3. The third respondent has filed his report before Court, wherein it is stated that the fifth respondent, in no way, has violated the conditions of the permit that is granted to him.

4. Learned single Judge, taking into consideration the report so filed by the third respondent in the Writ Petition, has rejected the Writ Petition.

5. The petitioner had filed a Review Petition before the learned single Judge as R.P.No.615 of 2007, for reviewing the judgment in W.P.(C) No.7455 of 2007, dated 9th April, 2007. The said Review Petition was also rejected by the learned single Judge. Aggrieved by those two orders, the

petitioner in the Writ Petition is before us in this appeal.

6. Learned counsel appearing for the appellant vehemently contends before this Court that the learned Judge was not justified in relying upon the report filed by the third respondent, namely, the Geologist, Thrissur District, for rejecting the Writ Petition filed by the petitioner. Therefore, request us to interfere with the orders passed by the learned single Judge in W.P.(C) No.7455 of 2007 and R.P.No.615 of 2007.

7. The main grievance of the petitioner before this Court was that the fifth respondent, taking advantage of the permit granted to him by the respondents, is illegally excavating soil in Sy.No.614/1P of Puthur Village in Thrissur Taluk. In order to find out the correctness or otherwise of the submission so made by the petitioner, the learned Judge has directed the third respondent to file his report. In the report it is stated that on inspection by him, there is no violation of the Rules and Regulations in the area in question.

8. The report is the basis for the learned Judge to reject the Writ Petition.

9. The Geologist is the person who can inform us whether the fifth respondent is excavating soil contrary to the conditions imposed in the permit. The Geologist has filed his report before the Court and in that he has categorically stated that the fifth respondent has not violated the conditions of the permit given to him for excavating soil in Sy.No.614/1P.

We find no reason to dispute the correctness or otherwise of the report filed by the Geologist. Keeping all these aspects of the matter in view, the learned single Judge, in our opinion, has rightly rejected the Writ Petition and the Review Petition. Interference of the said orders are not called for. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

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